IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Charles Hymes et al.

Application No.: 10/633,250

Filed: July 31, 2003

For: AUTOMATIC MANAGEMENT OF THE
VISUAL SPACE WHILE PERFORMING A
TASK

Confirmation No.: 4797

Art Unit: 2179

Examiner: N. Augustine

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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Dear Madam:

As required under 37 C.F.R. § 41.41(a), this Reply Brief is filed within two months after the Examiner's Answer dated February 20, 2009, and is in furtherance of the Appeal Brief filed November 24, 2008.

No fee is required for this Reply Brief.

This brief contains items under the following headings pursuant to M.P.E.P. § 1208:

I.	Status of Claims
II	Grounds of Rejection to Be Reviewed on Appeal
III.	Remarks
IV.	Conclusion

I.   STATUS OF CLAIMS

The status of claims remains as identified in the Appeal Brief submitted November 24, 2008, wherein claims 1-29 stand rejected and are presented for appeal.

II.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Subramaniam (U.S. App. No. 2007/0118504) (hereinafter *"Subramaniam"*) in view of Bartz et al. (U.S. Pat. No. 7,080,327) (hereinafter *"Bartz"*).

III.   REMARKS

Claims 1-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Subramaniam* and *Bartz*. On November 24, 2008, Appellant filed an Appeal Brief explaining why claims 1-29 are not obvious in view of the asserted combination of *Subramaniam* and *Bartz*. In the Appeal Brief, Appellant argued many of the rejected claims separately, and thus respectfully asserts that the separately argued claims do not stand or fall together. *See* 37 C.F.R. §41.37(c)(1)(vii). Appellant hereby incorporates and reasserts the arguments presented in the Appeal Brief but, for brevity, does not repeat all the arguments herein. Rather, Appellant addresses several remarks contained in the Examiner's Answer. The organization of the arguments is not intended to, and in no way does, constitute a waiver of Appellant's election to argue claims separately.

A.   Appellee Mischaracterizes *Bartz*

In response to Appellant's arguments, Appellee has presented arguments that distort the cited references. Although Appellee mischaracterizes both *Subramaniam* and *Bartz*, this section focuses on the disclosure of *Bartz*. To aid the Board in understanding Appellant's arguments, the following discussion provides an overview of *Bartz* as understood by Appellant.

Bartz discloses a software application for assisting a user with microcontroller design. *See, e.g., Bartz*, 2:35-39; 2:48-52; 5:47-57. Contrary to Appellee's assertions, *Bartz* does not disclose a software tool that manages a plurality of applications; nor does *Bartz* disclose a

system in which graphical elements are selected, or tasks are performed, according to a step in an automated work flow.

Bartz discloses a microcontroller design application that includes a graphical user interface for aiding a user with microcontroller design. The disclosed graphical user interface includes first and second groups of graphical elements. *Bartz*, FIGS. 4A-D, elements 410, 420; 7:65-67. The graphic elements are rendered as buttons, and each graphic element is associated with a particular task, window, or workspace in the disclosed graphical user interface. *Bartz*, 8:1-7. The graphic elements are organized within elements 410 and 420 "to suggest an order for performing tasks, and the first and second toolbars are used to suggest a hierarchy of tasks." *Bartz*, 8:8-11 (emphasis added).

Each of the graphic elements may be either active or inactive. "An active element, when selected by a user, will initiate an action. An inactive element will not initiate an action if selected by a user." *Bartz*, 8:13-16 (emphasis added). In the examples of FIGURES 4A-D, graphic elements A, B, and C are active and, thus, may be selected by a user. *See Bartz*, 8:13-16. In the system disclosed by *Bartz*, "user selection of an active element initiates a particular task." *Bartz*, 8:35-36 (emphasis added). According to its express disclosure, therefore, *Bartz* does not automatically select an icon. Instead, the disclosed graphic elements are selected by a user of the microcontroller design application.

In the disclosed microcontroller design application "some of the elements are always active, regardless of which task is being performed." *Bartz*, 8:49-51. This allows the user to move between various tasks by selecting the appropriate graphic element. *Bartz*, 8:64-66. Other elements are not activated until another element is selected. *See, e.g., Bartz*, 9:48-53.

As noted above, another feature of the application disclosed by *Bartz* "is that the graphic elements are rendered in [the graphical user interface] in locations that correspond to the logical order in which tasks should be performed." *Bartz*, 9:4-7 (emphasis added); *see also Bartz*, 9:15-17 ("The order of the graphic elements is used to suggest to the user the order in which the [graphical elements] are to be accessed.") (emphasis added); 9:40-41 ("the elements are placed to suggest to the user a logical order for performing the tasks") (emphasis added); 9:54-55 ("the elements can be used to imply a hierarchy of tasks within the logical

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order of tasks"). *Bartz* merely disclose a microcontroller design application in which the order for selecting of graphical elements, and thereby performing actions, is <u>suggested</u>. Contrary to Appellee's assertions, *Bartz* does not disclose that tasks must be performed in a particular order or that tasks are automatically performed in a particular order. Thus, *Bartz* does not cannot satisfy the claimed "wherein one of the one or more icons is selected according to the corresponding step of the automated workflow."

As shown in this section, *Bartz* discloses a microcontroller design application that provides a graphical user interface for managing tasks and actions associated with the design application. Contrary, to Appellee's assertions, the disclosed application does not manage a plurality of applications. In fact, *Bartz* discloses a microcontroller design application that manages tasks, or actions, performed by the disclosed application. Moreover, as shown in this section, the disclosed design application does not select icons in a graphical user interface according to an automated workflow; rather, graphical elements corresponding to tasks or actions are selected <u>by a user</u>.

B.   Claims 1-29 Include Non-Obvious Differences over *Subramaniam* and *Bartz*

As discussed in Appellant's opening Brief, the rejections of claims 1-29 should be reversed because, when considering the scope and content of the applied *Subramaniam* and *Bartz* references, there are significant differences between the applied combination and claims 1-29. Considering the lack of disclosure in the applied combination of all elements of claims 1-29, one of ordinary skill in the art would not find these claims obvious under 35 U.S.C. § 103. The rejections of claims 1-29 should, therefore, be reversed.

1.   Claim 1

Appellant has presented arguments showing that the asserted combination of *Subramaniam* and *Bartz* does not disclose the portion of claim 1 that recites "a managed application display area that displays a managed application responsive to the icon identifying the managed application being selected wherein the icon is selected according to a step in an automated workflow." Appeal Brief, pp. 6-8. In response to Appellant's arguments, Appellee asserts that *Bartz* discloses the aforementioned portion of claim 1.

Examiner's Answer, pg. 20. Appellee's conclusion that *Bartz* discloses the aforementioned portion of claim 1 is based on a series of mischaracterizations and assumptions.

First, Appellee incorrectly asserts that "when completion of the step is complete in the automated workflow procedure the graphical user interface is changed/modified in order to complete the next step in the automated workflow procedure." As discussed above, *Bartz* does not disclose a system that relies on an "automated workflow procedure." Although *Bartz* discloses an application in which selection of certain graphical elements corresponding to tasks is suggested, *Bartz* does not disclose an application in which the application user is required to take certain steps or where tasks are undertaken mechanically without any input from the user. Appellee's assumption that *Bartz* discloses a system that relies on an automated workflow is completely unsupported by the disclosure.

Second, Appellee's assertion that "only icons acted upon for a certain step in an overall task to be completed is displayed at one given time during the sequence of steps to be performed relating to the main task to be accomplished" is incorrect and misleading. *Bartz* expressly discloses that certain graphical elements, which correspond to different tasks, may be selected at all times. *See, e.g.,* Bartz, 8:49-51 ("some of the elements are always active, regardless of which task is being performed"). *Bartz* does not disclose a system in which a series of graphical elements are mechanically presented to user; instead *Bartz* discloses a microcontroller design application in which certain tasks are suggested, but in which the application user is given freedom to select from a plurality of tasks. As expressly stated by *Bartz*, "the graphic elements are organized within each toolbar to suggest an order for performing tasks." *Bartz*, 8:8-10. *Bartz* discloses an application in which certain tasks are suggested to a user but in which the application user ultimately selects what, and when, tasks are performed. *Bartz* does not disclose an automated workflow or selecting an icon according to a step in an automated workflow.

> 2.   Dependent Claim 3, 10, and 16

Claims 3 and 10 recite, in part, "a quick start bar, wherein the quick start bar includes one or more icons for identifying non-managed applications." Similarly, claim 16 recites "a quick start bar, wherein the quick start bar includes one or more icons identifying non-managed applications." In response to Appellant's arguments concerning claims 3, 10, and

16, Appellee asserts that graphical elements 410 and 420, illustrated by FIGS. 4A-D of *Bartz*, meet the aforementioned "quick start bar" of claims 3, 10, and 16. Examiner's Answer, pg. 22. Elements 410 and 420 do not meet the claimed "quick start bar" at least because they do not include "one or more icons for identifying non-managed applications."

Appellee asserts that "Bartz shows in FIG. 4A icons A, B, and C which are static icons such that when the user is performing a workflow procedure the user is able to switch from the current workflow and start another non-managed/non-executing process such as A, B, or C." Examiner's Answer, pg. 22. Appellee's characterization of *Bartz* is incorrect and misleading. As discussed above in section III(A), *Bartz* does not disclose a system for managing a plurality of managed and non-managed applications. Instead, *Bartz* discloses a microcontroller design application that includes a graphical user interface for managing a plurality of tasks that may be performed using the microcontroller design application. As discussed in the Appeal Brief, the claimed "non-managed applications" are applications that "are not found in the Agent or Contact Workflow" (i.e., separate applications such as "corporate e-mail applications and calendaring applications."). Appeal Brief, pg. 10. Graphical elements A, B, and C do not meet the claimed "one or more icons for identifying non-managed applications" at least because the elements do not identify applications; rather, they identify tasks, or actions, performed by the microcontroller design application disclosed by *Bartz*.

Even assuming arguendo that graphical elements A, B, and C illustrated in FIG. 4A correspond to applications, graphical elements A, B, and C do not identify "non-managed" applications. In answering Appellant's arguments with respect to claim 1, Appellee described the disclosed graphical elements as "automatic workflow icons." Thus, according to Appellee's own argument, the graphical elements A, B, and C correspond to actions that are directed by the disclosed microcontroller design application. The graphic elements A, B, and C disclosed in *Bartz*, which correspond to tasks directed by the disclosed microcontroller design application, simply do not meet the claimed "icons for identifying non-managed applications."

3.   Claim 6

In responding to Appellant's arguments with respect to claim 6, Appellee asserts that the tasks associated with graphical elements A, B, and C meet the claimed "managed applications." Examiner's Answer, pp. 22-23. As discussed above, with respect to claim 3, Appellee also asserts that the tasks associated with graphical elements A, B, and C meet the claimed "non-managed applications." Appellee cannot have it both ways. The claimed "non-managed applications" and "managed applications" are distinct subject matter.

The tasks associated with graphical elements A, B, and C do not meet the claimed "managed applications" at least because the graphical elements do not correspond to separate applications. Graphical elements A, B, and C are buttons that are associated with a particular task, window or workspace. *Bartz*, 8:6-7 ("[E]ach graphic element is associated with a particular task, window or workspace."). Thus, the plurality of windows disclosed in FIGS. 4A-4D do not correspond to more than one application. They correspond to one or more tasks or workspaces within the disclosed microcontroller design application. For at least this reason graphical elements A, B, and C do not meet the claimed "wherein more than one managed application is displayed concurrently in the managed application display area."

4.   Claim 8

Appellant has shown that the proposed combination of *Subramaniam* and *Bartz* does not disclose the portion of claim 8 that recites "executing an automated workflow that defines a plurality of steps for managing a customer call." In response to Appellant's argument, Appellee asserts that "Subramaniam discloses a system which can be used for a call center in which the main portion of the system of Subramaniam is used for looking up client information and performing an automated workflow procedure." Examiner's Answer, pg. 23. The cited portions of *Subramaniam* merely disclose that "[c]all centers now typically implement solutions providing . . . workflow automation and dynamic scripting to ensure that work is handled in the most efficient manner and that business processes and policies are always enforced . . . " and that server programs in the disclosed system may be designed and configured to executing workflow and process automation. *Subramaniam* says nothing about what type of workflow or process automation the disclosed servers might perform, much less that the servers execute "an automated workflow that defines a plurality of steps for

managing a customer call," as required by claim 8. That a system is capable of executing an automated workflow does not mean that the system necessarily executes "an automated workflow that defines a plurality of steps for managing a customer call," as required by claim 8.

Appellee only partially responded to Appellant's argument that the combination of *Subramaniam* and *Bartz* does not address the portion of claim 8 that recites "the automated workflow having at least one step corresponding to each one of the at least one icon, wherein at least one of the icons is selected according to the corresponding step of the automated workflow." In responding to Appellant's arguments, Appellee's made no attempt to show that the asserted references disclose the portion of claim 8 that recites "the automated workflow having at least one step corresponding to each one of the at least one icon." Appellee merely asserted that *Bartz* discloses the portion of claim 8 that recites "wherein at least one of the icons is selected according to the corresponding step of the automated workflow." As discussed above, with respect to claim 1, *Bartz* does not disclose a system in which an icon is selected according to a corresponding step of an automated workflow. The rejection of claim 8 should be reversed at least because Appellee has not shown that the combination of *Subramaniam* and *Bartz* discloses the portion of claim 8 that recites "the automated workflow having at least one step corresponding to each one of the at least one icon, wherein at least one of the icons is selected according to the corresponding step of the automated workflow."

5.   Claim 14

Appellant has presented arguments that the asserted combination of *Subramaniam* and *Bartz* does not disclose the portion of claim 14 that recites "an automated workflow defining a plurality of steps for controlling the agent's handling of a contact." Appeal Brief, pp. 18-19. Appellee did not respond to Appellant's arguments. Nonetheless Appellant reiterates that, as discussed above with respect to claim 8, a system that is capable of executing workflow and process automation does not necessarily include an automated workflow defining a plurality of steps for controlling an agents handling of a contact.

6.   Claim 21

In response to Appellant's argument that Appellee did not satisfy 37 CFR 1.104(c)(2) in rejecting claim 21, Appellee argued that "the Examiner has cited the best reference at his command." Examiner's Answer, pg. 23. Appellee's obligations do not end with citing the best references at his command. Appellee is obligated to clearly explain the pertinence of each reference. 37 CFR 1.104(c)(2). Appellee has offered absolutely no explanation for how *Subramaniam* or *Bartz* meet the portions of claim 21 that recite "a contact center control panel presenting current contact information, wherein the information indicates a type of call placed by the current contact to the contact center" and "one or more icons is selected according to the corresponding step of the automated workflow and the type of call indicated by the contact center control pane. As pointed out in the Appeal Brief, neither *Subramaniam* nor *Bartz* disclose these portions of claim 21.

Appellee did not respond to Appellant's argument that the asserted combination of references does not disclose the portion of claim 21 that recites "a contact center control panel presenting current contact information, wherein the information indicates a type of call placed by the current contact to the contact center." Appellant reasserts that nothing in *Subramaniam* or *Bartz* discloses this portion of claim 21. Paragraph [0009], which Appellee cites, merely discloses that eBusiness applications are generally designed to allow organizations to create a single source of customer information and are typically built on a component-based architecture. FIGS. 26 and 27, which Appellee also cites, disclose interfaces for accessing the searching capability of the system disclosed by *Subramaniam*. Nothing in these figures or the text describing them suggests a system that "presents current contact information, wherein the information indicates a type of call placed by the current contact to the contact center." The Examiner has pointed to nothing in the disclosures of *Subramaniam* or *Bartz* that suggests "a contact center control panel presenting current contact information, wherein the information indicates a type of call placed by the current contact to the contact center," as required by claim 21.

Appellant has also shown that the combination of *Subramaniam* and *Bartz* does not disclose the portion of claim 21 that recites "one or more icons is selected according to the corresponding step of the automated workflow and the type of call indicated by the contact center control pane." Appellee did not respond to Appellant's argument that the asserted

combination of references does not disclose the aforementioned portion of claim 21.
Appellant reasserts that nothing in *Subramaniam* or *Bartz* discloses the portion of claim 21
that recites "one or more icons is selected according to the corresponding step of the
automated workflow <u>and</u> the type of call indicated by the contact center control pane." As
discussed above, *Bartz* does not even disclose a system in which one ore more icons is
selected according to the corresponding step of an automated workflow, much less that one or
more icons is selected according to the type of call indicated by a contact center control pane.

Moreover, paragraph [0082] of *Subramaniam*, which is cited by Appellee, merely
discloses that in certain embodiments of the disclosed system, a server runs one or more
multiple server programs and can be designed and configured to perform one or more specific
functions or jobs. That a server can execute multiple programs or configured to perform
more than one function says nothing about selecting an icon based on the type of call
indicated by the contact center control pane. Cited paragraph [0072], which is also cited by
Appellee, merely discloses that the disclosed user Interface layer may provide applets, views,
charts and reports associated with one or more applications. Nothing in this paragraph
suggests selecting an icon based on the type of call indicated by a contact control center pane.
Finally, nothing in FIG. 26, which is cited by Appellee, suggests that an icon is selected
according to a step in an automated workflow and the type of call indicated by a contact
center control pane. The Examiner has pointed to nothing in the disclosures of *Subramaniam*
or *Bartz* that suggests "one or more icons is selected according to the corresponding step of
the automated workflow <u>and</u> the type of call indicated by the contact center control pane," as
required by claim 21.

7.   Claim 26

Appellant has also shown that the asserted combination of *Subramaniam* and *Bartz*
does not disclose "automatically opening one or more applications on the agent's desktop
suitable for aiding the agent in handling the call depending, at least in part, upon the one
media type," as recited in claim 26. Appeal Brief, pp. 26-27. In response, Appellee argues
that "Bartz explains an automated workflow that aids the user in performing a desired task
selected by the user being able to choose various automated workflow procedures (various
media types)." Examiner's Answer, pg. 24. As an initial matter, it is unclear to Appellant

what argument Appellee is attempting to make. However, it appears clear that the argument does not address the portion of claim 26 that recites "automatically opening one or more applications on the agent's desktop suitable for aiding the agent in handling the call depending, at least in part, upon the one media type."

Nonetheless, the cited portions of *Subramaniam* and *Bartz* do not disclose the claimed "automatically opening one or more applications on the agent's desktop suitable for aiding the agent in handling the call depending, at least in part, upon the one media type." As discussed above, the cited portions of *Subramaniam* merely disclose that call centers may enable automatic workflow and dynamic scripting. Moreover, as discussed above, *Bartz* merely discloses a microcontroller design application in which the order of performing certain tasks is suggested. Nothing in *Bartz* or *Subramaniam* suggests automatically opening one or more applications suitable for aiding an agent in handling a call depending upon the media type of a received call.

C.   Appellee Has Provided No Explanation for Why the Claimed Inventions Would Have Been Obvious

In arguing that the rejections of claims 1, 3, 4, 6, 8, 10, 11, 14, 16, 17, 21, and 26 are improper, Appellant specifically asserted that Appellee's rejections were deficient because Appellee did not explain how *Subramaniam* and *Bartz* could have been modified to meet the claimed invention or provide an explanation of why a person of ordinary skill in the art would have found it obvious to make the proposed modification. Appeal Brief, pp 9, 11-13, 16-18, 20-22, 25, and 27. The Federal Circuit has stated that "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *See, e.g., KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007). Appellee did not address aforementioned deficiencies in the Examiner's Answer. Given the divergent subject matter of *Subramaniam* (a system for locating information in a database) and *Bartz* (a microcontroller design application) and the lack of disclosure in the asserted references, the references are not disclosures one of ordinary skill in the art would have found obvious to combined. Accordingly, the requirement that Appellee must provide some articulated reasoning to support the legal conclusion of obviousness is all the more applicable in the present case. Appellant reasserts that the rejections of record are deficient based on

Appellee's failure to properly support the rejections of record and respectfully requests that the Board reverse the rejections of claims 1-29.

IV.   CONCLUSION

Appellant believes that each of the pending claims is in condition for allowance and respectfully requests that the rejections of record be overturned.

Dated: April 20, 2009   Respectfully submitted,

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Date of Transmission: _____April 20, 2009_____